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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

CONSENT AGREEMENT AND
CONSENT ORDER
Docket No. CWA-07-2003-0173

1. This proceeding was initiated pursuant to Section 309(g)(2)(B) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g)(2)(B). On July 1, 2003, the Complainant, the Director of the Division of Water, Wetlands, and Pesticides of the United States Environmental Protection Agency (EPA), Region VII, issued an Administrative Complaint to Prestwick Group, Ltd. (Respondent).
2. The Complaint alleged that Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a), by discharging pollutants from a point source into an unnamed tributary to Ranney Creek, a waterbody that flows into the Mississippi River, a water of the United States, and into a forested wetland adjacent to this tributary, in Cape Girardeau County, Missouri, without a permit. This Consent Agreement and Consent Order incorporates the Complaint and is in settlement of the violation alleged in the Complaint. Authority to execute this Consent Agreement has been delegated to the Regional Administrator by EPA Delegation No. 2-52-A, dated October 16, 1991, and further delegated to the Director, Water, Wetlands and Pesticides Division or his designee, with concurrence of the Regional Counsel, by EPA Delegation No. R7-2-52-A, January 1, 1995. Authority to execute the Consent Order has been delegated to the Regional Judicial Officer, by EPA Delegation No. R7-1-38.
3. Nothing in this Consent Agreement and Consent Order shall be construed as a release from any other action under any law and/or regulation administered by the EPA other than those facts, actions and legal issues identified in the Complaint referenced in Paragraph 2 above.

4. Respondent, without adjudicating or admitting any issue of fact or law herein, and for the purpose of settling its full liability for the allegations in the Complaint, agrees with the Complainant to the entry of this Consent Agreement. The following Agreement represents full and complete settlement of liability and penalty in said Complaint.
5. This Consent Agreement and Consent Order shall apply to and be binding upon EPA and Respondent, their successors, and assigns. Any change in the organization, management, government, ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Respondent's responsibilities under this Consent Agreement and Consent Order.
6. The Effective Date of this Consent Agreement and Consent Order is the date the Consent Order is signed by the Regional Judicial Officer.
7. The terms of this Consent Agreement and the Consent Order shall remain in full force and effect until Respondent pays its penalty payment in full, unless modified by a subsequent written agreement between the parties.

B. CONSENT AGREEMENT

1. Respondent agrees to the terms of this Consent Agreement and further consents to the assessment of, and to pay, the civil penalty as set forth in the Consent Order, and any other charges or penalties which may become due and payable for failing to satisfy any requirement of the Consent Order.
2. Respondent admits that EPA has jurisdiction over the subject matter alleged in the Complaint.
3. Respondent neither admits nor denies the factual allegations set forth in the Complaint in this or subsequent proceedings to enforce the terms of this Consent Agreement and Consent Order.
4. Respondent explicitly waives its right to a hearing on any issue of fact or law as applied to those factual and legal allegations set forth in the Complaint.
5. Respondent and EPA agree to bear their own costs and attorneys' fees.

C. CONSENT ORDER

Pursuant to the authority of Section 309(g)(2)(B) of the CWA, 33 U.S.C. §1319(g)(2)(B), and according to the terms of the Consent Agreement set forth above, IT IS HEREBY ORDERED THAT:

PENALTY

1. Within thirty days of the Effective Date, described in Paragraph 6 of Section A., Preliminary Statement, Respondent shall pay a civil penalty of eleven thousand four hundred dollars (\$11,400) by certified or cashier's check, payable to "Treasurer of the United States", and remit to:

U.S. Environmental Protection Agency, Region VII
Mellon Bank, Room 2723
Wholesale Lockbox
P.O. Box 360748
Pittsburgh, Pennsylvania 15259-0003

Respondent shall identify on the check the following:

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Concurrent with the mailing of the penalty payment, Respondent shall send a copy of the transmittal letter and check to Audrey Asher, Office of Regional Counsel, U.S. Environmental Protection Agency, Region VII, 901 N. Fifth Street, Kansas City, Kansas 66101.

2. In the event that payment of \$11,400 is not received by EPA within thirty (30) days of the Effective Date, a late payment handling charge of \$15.00 will be imposed for payments received thirty (30) days after the due date and an additional \$15.00 will be charged for each subsequent thirty (30) day period. As provided by 31 U.S.C. § 3717(e)(2), a 6.00 percent per annum penalty (late charge) will also be assessed on any penalty amount not paid within ninety (90) days of the date it is due and payable, and interest shall accrue on the unpaid amount at the rate determined by the Secretary of the Treasury for that period until such civil penalty and accrued interest are paid in full.

For the Respondent Prestwick Group, Ltd.:

Signature

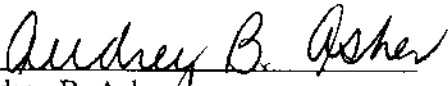
Date

Print Name

Title of Signatory (Print)

Address

For the Complainant United States Environmental Protection Agency:

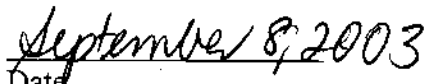

Audrey B. Asher

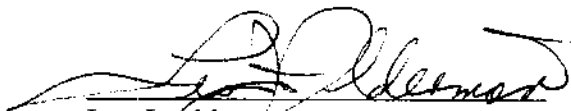
Senior Assistant Regional Counsel

U.S. Environmental Protection Agency - Region VII

901 N. 5th Street

Kansas City, Kansas 66101


Date


Leo J. Alderman

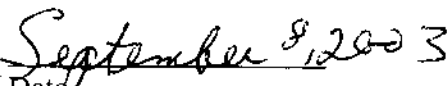
Director

Water, Wetlands, and Pesticides Division

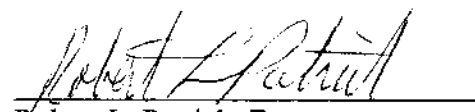
U.S. Environmental Protection Agency - Region VII

901 N. 5th Street

Kansas City, Kansas 66101


Date

IT IS SO ORDERED.

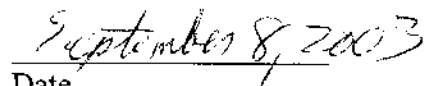

Robert L. Patrick, Esq.

Regional Judicial Officer

U.S. Environmental Protection Agency - Region VII

901 N. 5th Street

Kansas City, Kansas 66101


Date

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CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Consent Order was sent this day in the following manner to the addressees:


Copy hand delivered to
Attorney for Complainant:

Audrey B. Asher
Senior Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by U.S. Certified Mail,
Return Receipt Requested, to:

Mark S. Johnson, Esq.
Johnson & Stark, L.L.C.
Union Planters Bank Building
407 N. Kingshighway, Suite 400
Cape Girardeau, MO 63701

Dated: 9/9/03


Kathy Robinson
Regional Hearing Clerk